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December 21, 2015

Sent via U.S. Mail

Tommy Gong, County Clerk Recorder
Office of County Clerk Recorder
County of San Luis Obispo
1055 Monterey Street, Room D120
San Luis Obispo, CA 93408

*Re: Conflict of Interest Code for San Luis Obispo County Local Agency Formation
Commission (LAFCO)*

Dear Mr. Gong:

Enclosed please find the following in connection with the amendment of LAFCO's Conflict of Interest Code:

- Resolution #2015-02 Approving the Amended Conflict of Interest Code dated March 19, 2015
- A "red-line/strike out" version reflecting the changes to the current Conflict Of Interest Code
- A "final" clean copy of the new Conflict of Interest Code

LAFCO elected to replace its existing Conflict of Interest Code with the model code set forth in California Code of Regulations, Title II, Section 18730. The bulk of the existing LAFCO Conflict of Interest Code is not available in electronic form.

I discussed the areas of revisions with Ann Duggan last week, and I believe she is expecting to review the enclosed amendments.

If you have any questions or if I can otherwise be of assistance to you, please let me.

Very truly yours,



RAYMOND A. BIERING
Commission Legal Counsel

Cc: David Church, Executive Officer

RAB:amb

G:\LAFCO\General Counsel\Drafts\Corr Tommy Gong 121815.doc

Enclosures

**IN THE LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA**

RESOLUTION NO. 2015-02

RESOLUTION APPROVING THE AMENDED CONFLICT OF INTEREST CODE

PRESENT: Chairperson, Tom Murray, Vice-Chairman Frank Mecham
Commissioners Muril Clift, Roberta Fonzi, Bruce Gibson,
Ed Waage and Alternate Commissioners David Brooks and Robert Enns

ABSENT: Commissioner Marshall Ochylski and Alternate Commissioners Adam Hill
and Jamie Irons

WHEREAS, Government Code section 87300 requires each local public agency to adopt and promulgate a conflict of interest code pursuant to the Political Reform Act;

WHEREAS, Government Code section 87307 authorizes a local public agency to amend its conflict of interest code at any time;

WHEREAS, minor changes need to be made to the Conflict of Interest Code; and

WHEREAS, the Commission duly considered the AMENDED Conflict of Interest Code: The Commission hereby adopts the Amended Conflict of Interest Code attached hereto, which supersedes the Conflict of Interest Code last amended on June 15, 2006.

1. The terms of California Code of Regulations, Title 2, section 18730, as set forth in the attached Appendix A, and any amendments to section 18730 duly adopted by the FPPC, are hereby adopted and incorporated by reference as the main body of LAFCO's conflict of interest code.
2. The list of designated LAFCO positions and applicable disclosure categories attached as Appendix B is hereby adopted as the appendix of designated positions and disclosure categories to accompany section 18730.
3. Designated employees and officers shall file statements of economic interest (FPPC Form 700) with the County Clerk-Recorder who will make the statements available for public inspection and copying.
4. This conflict of interest code shall not take effect until the San Luis Obispo County Board of Supervisors approves it in its capacity as code reviewing body under the Political Reform Act. The Commission Clerk is hereby authorized and directed to submit a certified copy of this resolution with appendices to the Board of Supervisors and request approval of the conflict of interest code.
5. After approval by the San Luis Obispo County Board of Supervisors, this resolution and Appendix A shall constitute the Conflict of Interest Code of the San Luis Obispo Local Agency Formation Commission.

Resolution No: 2015-02
Date: March 19, 2015

NOW, THEREFORE, BE IT RESOLVED by the San Luis Obispo Local Agency Formation Commission that the Amended Conflict of Interest Code, attached hereto and incorporated by reference as Exhibit A, is hereby adopted on March 19, 2015.

Upon a motion by Vice-Chairman Mecham, seconded Commissioner Gibson, and on the following roll call vote:

AYES: Vice-Chairman Mecham, Commissioners Gibson, Clift, Enns, Fonzi, Waage, and Chairman Murray

NAYS: None

ABSTAINING: None

The motion carried unanimously with a roll call vote.

The foregoing resolution is hereby adopted.



Tom Murray, Chairman Date
Local Agency Formation Commission

ATTEST:

 4-29-15

David Church Date
LAFCO Executive Officer

APPROVED AS TO FORM AND LEGAL EFFECT:

 3/24/15

Raymond A. Biering Date
LAFCO Legal Counsel

~~CONFLICT OF INTEREST CODE
OF THE
LOCAL AGENCY FORMATION COMMISSION~~

~~ARTICLE I~~

~~GENERAL~~

Section

100. Purpose and Effect

- (a) Pursuant to the provisions of Government Code Section 87300, the ~~LOCAL AGENCY FORMATION COMMISSION~~ hereby adopts the following Conflict of Interest Code. This Code shall be interpreted in a manner consistent with the Political Reform Act of 1974, Government Code Section 81000, et seq. (the "Act") and the Regulations adopted pursuant thereto by the Fair Political Practices Commission. The provisions of this Code are in addition to Government Code Sections 87100, 1090-1097, 1125-1127, Education Code Section 1171 et seq., and other laws pertaining to conflicts of interest.
- (b) This Code has the force and effect of law and any violation of this Code shall be deemed a violation of Chapter 7 of the Act, Government Code Section 87100 et seq., and will be subject to the enforcement and penalty provisions provided for in the Act.

101. Definitions. Except as provided in subsections (a) and (b), the definitions contained in the Act and the regulations adopted pursuant thereto are incorporated into this Code.

- (a) The definition of "investment" contained in the Act (Government Code Section 82034) is incorporated herein except that the term "investment" shall not include ownership of less than one-half (1/2) of one (1) percent of the outstanding securities of a business entity whose securities are registered with the Securities and Exchange Commission of the United States Government.
- (b) The definition of "income" contained in the Act (Government Code Section 82030) is incorporated herein, except that "income" shall not include a designated employee's compensation received from the Commission.

102. Effective Date of Code. This Code shall become effective on

January 1, 1978

~~in real property and income are found in the Act (Government Code Sections 82034, 82033, and 82030). If a financial interest does not fit within any of these three definitions, a designated employee cannot be required by a conflict of interest code to disclose that interest. In addition, the types and scope of investments, interests in real property and income made reportable by a designated employee's disclosure categories may, in many situations, be narrower than the basic definitions found in the Act. To prevent overdisclosure, each designated employee should therefore consult the definitions of investments, interests in real property, and income, as well as his or her specific disclosure categories before filling out the statement of financial interests.~~

~~203. Manner of Reporting Financial Interests. Except as provided in subsections (a) & (b), the manner of reporting reportable investments, interests in real property and income shall be pursuant to Government Code Sections 87206 and 87207.~~

~~(a) Designated employees are not required to comply with Government Code Section 87206(e).~~

~~(b) For purposes of Government Code Sections 87207(b)(2) and (3), the disclosure of the names of clients or customers who paid fees to the business entity is required only if it is reasonably foreseeable that financial interests of the client or customer may be materially affected by any Commission related decisions made or participated in by the designated employee.~~

~~ARTICLE III~~

~~FILING OF STATEMENTS OF FINANCIAL INTERESTS~~

~~Section~~

~~300. Duty to File Statements of Financial Interests. It shall be the duty of each designated employee to file statements of financial interests conforming to all applicable requirements of this Code. Such statements shall be on forms provided by the County Clerk upon request.~~

~~301. Designation and Duties of Filing Officer; Place of Filing Statements.~~

~~(a) The Commission herewith delegates authority and responsibility to the County Clerk for receipt of all statements of financial interests and for administration of the duties of the filing officer delineated in Government Code Sections 81008, 81010 and 91013.~~

- ~~(b) Designated employees shall file any statements required by this Code with the County Clerk who shall retain the original and forward a copy to the Commission. Both the County Clerk and the Commission shall make statements accessible to the public in a manner consistent with Government Code Section 81003.~~
- ~~(c) Upon request, the County Clerk shall supply copies of pertinent sections of the Act, this Code, disclosure forms and instruction manuals for filling out disclosure forms.~~

302. Times of Filing and Periods Covered by Statements.

- ~~(a) Initial Statements shall be filed by each designated employee within thirty (30) days after the effective date of this Code and shall disclose investments and interests in real property (but not income) held at the time of filing. Persons appointed, promoted, or transferred to designated positions shall file initial statements within thirty (30) days after the date of assuming the position.~~
- ~~(b) Annual Statements shall be filed during the month of disclosing reportable investments, interests in real property and income held or received in the period since the closing date of the designated employee's previously filed statement and _____.~~
- ~~(c) Leaving Office Statements shall be filed by every person who leaves a designated position specified in Exhibit "A" within thirty (30) days after leaving the position, disclosing his or her reportable investments, interests in real property, and income during the period since the closing date of the previous statement filed pursuant to this Code. The statement shall include any reportable investments, interests in real property, and income held or received at any time during the period covered by the statement, whether or not still held at the time of filing.~~

ARTICLE IV

DISQUALIFICATION

Section

400. Circumstances Requiring Disqualification.

- ~~(a) A designated employee must disqualify himself or herself from making or participating in the making of any decision, or from using his or her official position to influence a Commission~~

~~decision, if it is reasonable foreseeable that the decision will have a material financial effect, distinguishable from the decision's effect on the public generally, on any reportable* financial interest (except gifts of less than \$250.00) or upon any business entity in which the designated employee holds a position of management or is a director, officer, partner, trustee, or employee.~~

~~(b) No designated employee shall be prevented from making or participating in the making of any decision:~~

- ~~1. Which relates to his or her compensation from the Commission, or the terms and conditions of his or her employment or contract with the Commission; or~~
- ~~2. To the extent his or her participation is legally required for the decision to be made. The fact that an official's vote is needed to break a tie does not make his or her participation legally required for purposes of this section.~~

~~401. Manner of Disqualification.~~

~~(a) If a person required to disqualify pursuant to Section 400 is a member of a decision making board, commission or committee, he or she shall:~~

- ~~1. Give notice of the existence of the conflict at the meeting during which consideration of the decision takes place, the notice to be made part of the official record; and~~
- ~~2. Refrain from participating in the decision or in any way attempting to use his or her official position to influence the decision.~~

~~(b) All other designated employees required to disqualify pursuant to Section 400 shall do so by notifying his or her supervisor in writing, describing with particularity the nature of the conflicting financial interest. Upon receipt of such statement, the supervisor shall reassign the matter to another employee.~~

~~*Although not required by this Code, under Government Code Section 87100 and other conflict of interest laws, a public official or employee (whether designated or not) may be required to disqualify himself or herself from making or participating in a decision in situations where a financial interest, although not subject to disclosure by a conflict of interest code, may foreseeably be materially affected by the decision.~~

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Appendix **BA**

Local Agency Formation Commission Conflict of Interest Code

Designations Positions List

<u>Designated Position</u>	<u>Disclosure Category Numbers</u>
Executive Officer	1, 2, 3
Senior LAFCO Analyst	1, 2, 3
LAFCO Legal Counsel	1, 2, 3
Board of Supervisors Member¹	
Alternate Board of Supervisors Member²	
<u>LAFCO Commissioners and Alternate Commissioners¹</u>	<u>1, 2, 3</u>
City Member	1, 2, 3
Alternate City Member	1, 2, 3
Public Member	1, 2, 3
Alternate Public Member	1, 2, 3
Special District Member	1, 2, 3
Alternate Special District Member	1, 2, 3

¹Board of Supervisors members and their alternate report under Gov. Code §87200~~Conflict of Interest Code for the Board of Supervisors~~

²~~Alternate Board of Supervisors members report under Conflict of Interest Code for the Board of Supervisors~~

Local Agency Formation Commission
Conflict of Interest Code

Disclosure Categories

The disclosure categories that relate to the numbers above are:

1. Interest in real property located within, or not more than two miles~~one-half mile~~ outside, the County boundary (does not include the principal of residence).
2. Investments in, and income from, any business entity doing business within the County.
3. Investments in, and income from, any business entity doing business within the County and engaged in:
 - a. The acquisition, sale, lease, or development of real property.
 - b. Provision of insurance brokerage for consulting services;or
 - c. Providing consulting services of the type which have, in the past two years, or which with reasonable foreseeability, may be used in the next one year period by the filers division within the office.

**IN THE LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA**

RESOLUTION NO. 2015-02

RESOLUTION APPROVING THE AMENDED CONFLICT OF INTEREST CODE

PRESENT: Chairperson, Tom Murray, Vice-Chairman Frank Mecham
Commissioners Muril Clift, Roberta Fonzi, Bruce Gibson,
Ed Waage and Alternate Commissioners David Brooks and Robert Enns

ABSENT: Commissioner Marshall Ochylski and Alternate Commissioners Adam Hill
and Jamie Irons

WHEREAS, Government Code section 87300 requires each local public agency to adopt and promulgate a conflict of interest code pursuant to the Political Reform Act;

WHEREAS, Government Code section 87307 authorizes a local public agency to amend its conflict of interest code at any time;

WHEREAS, minor changes need to be made to the Conflict of Interest Code; and

WHEREAS, the Commission duly considered the AMENDED Conflict of Interest Code: The Commission hereby adopts the Amended Conflict of Interest Code attached hereto, which supersedes the Conflict of Interest Code last amended on June 15, 2006.

1. The terms of California Code of Regulations, Title 2, section 18730, as set forth in the attached Appendix A, and any amendments to section 18730 duly adopted by the FPPC, are hereby adopted and incorporated by reference as the main body of LAFCO's conflict of interest code.
2. The list of designated LAFCO positions and applicable disclosure categories attached as Appendix B is hereby adopted as the appendix of designated positions and disclosure categories to accompany section 18730.
3. Designated employees and officers shall file statements of economic interest (FPPC Form 700) with the County Clerk-Recorder who will make the statements available for public inspection and copying.
4. This conflict of interest code shall not take effect until the San Luis Obispo County Board of Supervisors approves it in its capacity as code reviewing body under the Political Reform Act. The Commission Clerk is hereby authorized and directed to submit a certified copy of this resolution with appendices to the Board of Supervisors and request approval of the conflict of interest code.
5. After approval by the San Luis Obispo County Board of Supervisors, this resolution and Appendix A shall constitute the Conflict of Interest Code of the San Luis Obispo Local Agency Formation Commission.

Resolution No: 2015-02
Date: March 19, 2015

NOW, THEREFORE, BE IT RESOLVED by the San Luis Obispo Local Agency Formation Commission that the Amended Conflict of Interest Code, attached hereto and incorporated by reference as Exhibit A, is hereby adopted on March 19, 2015.

Upon a motion by Vice-Chairman Mecham, seconded Commissioner Gibson, and on the following roll call vote:

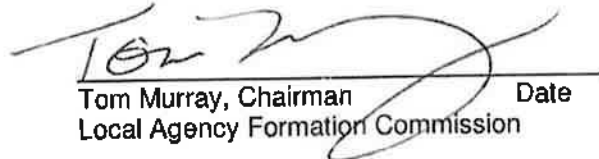
AYES: Vice-Chairman Mecham, Commissioners Gibson, Clift, Enns, Fonzi, Waage, and Chairman Murray

NAYS: None

ABSTAINING: None

The motion carried unanimously with a roll call vote.

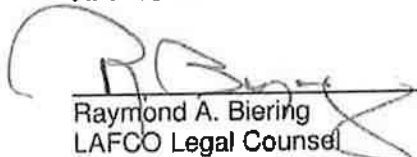
The foregoing resolution is hereby adopted.


Tom Murray, Chairman Date
Local Agency Formation Commission

ATTEST:

 4-29-15
David Church Date
LAFCO Executive Officer

APPROVED AS TO FORM AND LEGAL EFFECT:

 3/21/15
Raymond A. Biering Date
LAFCO Legal Counsel

Appendix A

§ 18730. Provisions of Conflict of Interest Codes.

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Section 87300 or the amendment of a conflict of interest code within the meaning of Section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Sections 81000, et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (Regulations 18110, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

(3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economic interests pursuant to article 2 of chapter 7 of the Political Reform Act, Sections 87200, et seq .

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Section 87200; and

(C) The filing officer is the same for both agencies.¹

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the economic interests set forth in a designated employee's disclosure categories

are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code. ²

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1. If a person reports for military service as defined in the Servicemember's Civil Relief Act, the deadline for the annual statement of economic interests is 30 days following his or her return to office, provided the person, or someone authorized to represent the person's interests, notifies the filing officer in writing prior to the applicable filing deadline that he or she is subject to that federal statute and is unable to meet the applicable deadline, and provides the filing officer verification of his or her military status.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

(1) File a written resignation with the appointing power; and

(2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later, or for a board or commission member subject to Section 87302.6, the day after the closing date of the most recent statement filed by the member pursuant to Regulation 18754.

(D) Contents of Leaving Office Statements.

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investment and Real Property Disclosure.

When an investment or an interest in real property ³ is required to be reported, ⁴ the statement shall contain the following:

1. A statement of the nature of the investment or interest;

2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;
4. A statement whether the fair market value of the investment or interest in real property equals or exceeds \$2,000, exceeds \$10,000, exceeds \$100,000, or exceeds \$1,000,000.

(B) Personal Income Disclosure. When personal income is required to be reported,⁵ the statement shall contain:

1. The name and address of each source of income aggregating \$500 or more in value, or \$50 or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was \$1,000 or less, greater than \$1,000, greater than \$10,000, or greater than \$100,000;

3. A description of the consideration, if any, for which the income was received;

4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;

5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,⁶ the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;

2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than \$10,000.

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. Prohibition on Receipt of Honoraria.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (a), (b), and (c) of Section 89501 shall apply to the prohibitions in this section.

This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Section 89506.

(8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of \$460.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than \$460 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (e), (f), and (g) of Section 89503 shall apply to the prohibitions in this section.

(8.2) Section 8.2. Loans to Public Officials.

(A) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(C) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected

officer has been elected or over which that elected officer's agency has direction and control.

This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(E) This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.

2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans from a person which, in the aggregate, do not exceed \$500 at any given time.

4. Loans made, or offered in writing, before January 1, 1998.

(8.3) Section 8.3. Loan Terms.

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of \$500 or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.

2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

(8.4) Section 8.4. Personal Loans.

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.

2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

a. The date the loan was made.

b. The date the last payment of \$100 or more was made on the loan.

c. The date upon which the debtor has made payments on the loan aggregating to less than \$250 during the previous 12 months.

(B) This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.

2. A loan that would otherwise not be a gift as defined in this title.

3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.

4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action.

Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.

5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth \$2,000 or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth \$2,000 or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating \$500 or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$460 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be

made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

(9.5) Section 9.5. Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value \$1,000 or more.

(10) Section 10. Disclosure of Disqualifying Interest.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

(11) Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Section 83114 and Regulations 18329 and 18329.5 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Sections 81000-91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Section 87100 or 87450 has occurred may be set aside as void pursuant to Section 91003.

¹ Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Section 81004.

² See Section 81010 and Regulation 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

³ For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

⁴ Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and

dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

⁵ A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

⁶ Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87103(e), 87300-87302, 89501, 89502 and 89503, Government Code.

Appendix B

Local Agency Formation Commission Conflict of Interest Code

Designations Positions List

<u>Designated Position</u>	<u>Disclosure Category Numbers</u>
Executive Officer	1, 2, 3
Senior LAFCO Analyst	1, 2, 3
LAFCO Legal Counsel	1, 2, 3
LAFCO Commissioners and Alternate Commissioners ¹	1, 2, 3

¹Board of Supervisors members and their alternate report under Gov. Code §87200

Local Agency Formation Commission
Conflict of Interest Code

Disclosure Categories

The disclosure categories that relate to the numbers above are:

1. Interest in real property located within, or not more than two miles outside, the County boundary (does not include the principal of residence).
2. Investments in, and income from, any business entity doing business within the County.
3. Investments in, and income from, any business entity doing business within the County and engaged in:
 - a. The acquisition, sale, lease, or development of real property.
 - b. Provision of insurance brokerage for consulting services;or
 - c. Providing consulting services of the type which have, in the past two years, or which with reasonable foreseeability, may be used in the next one year period by the filers division within the office.